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C O N F I D E N T I A L SECTION 01 OF 03 AMMAN 006691

SIPDIS

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TAGS: [EFIN](#) [PREL](#) [JO](#) [IZ](#) [UN](#)

SUBJECT: OIL-FOR-FOOD VIOLATIONS

Classified By: Charge d'Affaires David Hale for reason 1.5 (b)

1. (C) SUMMARY: A recent visit by HIRC STAFFDEL Scharfen may have uncovered hard, documentary evidence of involvement of some Jordanian banks in facilitating the payment of kickbacks during the closing years of the Oil-for-Food (OFF) program. This evidence, if verified, would still leave some doubt as to whether the involvement was witting on the part of the banks, and more doubt as to whether the Central Bank of Jordan should reasonably have been expected to detect the banks, involvement in exercising its supervisory authority. Nonetheless, proof of Jordanian banks' involvement in OFF abuses could hurt the justifiable reputation Jordan has gained as a key ally of the U.S. in dealing with Iraq. We will seek clarification from government and Central Bank officials. Action request paragraph 13. END SUMMARY.

2. (C) On July 26, 2004, STAFFDEL Scharfen met with interlocutors whose remarks form the basis for the following composite description of possibly provable activity by Jordanian banks in facilitating Oil-for-Food violations. The STAFFDEL met with three officials from the Central Bank of Jordan, Deputy Governors Mohammed Said Shahin and Faris Sharaf and legal advisor Moosa Alaraj. It later met with Hassan Abadhar, Jordan country manager for Rafidain Bank, and Nasim Abdulwahab, a senior branch employee. The STAFFDEL's final meeting in Amman was with Fallah Al-Khawaja, Commercial Manager at the Iraqi Ministry of Oil since February 2000.

"KICKBACK GUARANTEES"

3. (C) According to Khawaja, Saddam Hussein began requiring kickbacks in August 2000, after previous, cruder, sanctions-dodging schemes of the regime had been blocked. He initially wanted the kickbacks - the required value of which would be set by Saddam as a percentage of the total value of the contract being awarded by the regime - to be paid up front. However, the rejection rate of the UN 661 Committee, which had to approve all contracts signed between potential OFF suppliers and the Saddam regime, was high enough that few companies could afford to take the risk of paying a kickback up front on a contract that might be blocked.

4. (C) For this reason, Saddam began instead to demand that potential suppliers submit a bank guarantee promising that the kickback would be paid. (NOTE: Saddam would sometimes waive this requirement for certain favored companies and countries.) The fact that banks were to guarantee kickbacks was never explicitly stated; instead, potential OFF suppliers would send letters to bank branches explaining that the terms of the contracts with the Iraqi ministries with which the suppliers were dealing required a "performance guarantee" or an "after-sales service" guarantee. The banks would then issue a guarantee of the OFF supplier's ability to pay the stated penalty for the supplier's non-performance, which would usually be expressed as a percentage of the contract in question.

5. (C) According to Khawaja, Saddam required that all bank guarantees (for at least those contracts relating to supplies for the Ministry of Oil) go to the Rafidain branches in Jordan and Lebanon, which in turn were only allowed to accept guarantees from banks registered in those countries on behalf of the potential OFF suppliers. This meant that when guarantees were issued by banks outside of Jordan and Lebanon, they would have to be issued to local Jordanian and Lebanese banks. These local banks would in turn issue bank guarantees to the Rafidain branch.

6. (C) According to Abdulwahab (strictly protect), when the Rafidain branch in Jordan received OFF-related bank guarantees, it was standard operating procedure to keep the guarantees on file until getting word from the Central Bank of Iraq (CBI) that the contract had been completed. If the contract was approved by the 661 Committee, BNP Paribas (which issued all letters of credit on 661-approved OFF contracts) would send a letter of credit to the CBI. The CBI would then inform Rafidain, which would order the local Rafidain branch to cancel the bank guarantee. If, however, the contract were blocked, the local Rafidain branch would debit the account of the bank guaranteeing the transaction.

7. (C) In this way, the "661 disapproval risk" was passed on from the suppliers to the local Jordanian and Lebanese banks

issuing the guarantees. Khawaja speculates that the local banks covered themselves by demanding that suppliers pay a large percentage of the guaranteed amount (presumably a substantially larger percentage than the percent of risk that the suppliers' OFF contracts would be blocked) as a service fee for the issuance of the guarantee - in essence, providing "kickback insurance." He further speculates that the dynamics of insuring a transaction that was by its nature illegal probably would have meant that these transactions were quite lucrative for the banks involved.

EVIDENCE?

18. (C) Aside from the verbal attestations of Khawaja and Abdulwahab, the STAFFDEL obtained a photocopy of an actual outstanding bank guarantee from a Jordanian bank to the Rafidain Bank. It promised to act as surety for an OFF supplier's ability to pay a certain sum that had been previously agreed upon between that supplier and the government of Iraq as a performance guarantee. The guarantee, like many others, had been issued prior to the war. With the end of the war, however, the guaranteeing banks had abandoned their role. Although the letter of credit was never paid out, the guaranteeing banks had already zeroed out their Rafidain accounts and could refuse to pay; Rafidain would have little recourse in collecting.

19. (C) This bank guarantee is potentially a conclusive proof of some Jordanian banks' involvement in funneling money to Iraq, if a statement by Khawaja proves to be true. According to Khawaja, there was no such thing as a "performance clause" or an "after-sales service" clause in an OFF contract. The contracting officials in the Ministry of Oil pushed repeatedly to include clauses guaranteeing performance (i.e., requiring payment in the event of non-performance), since OFF suppliers - with whom Saddam and his sons required that they deal - were sending them faulty equipment for whose performance Saddam would hold them to account. However, the contracting officials were unable to do this because the MOU governing the OFF program protected suppliers by ruling out such guarantees.

COMMENT: JORDAN,S POTENTIAL CULPABILITY

10. (C) If performance clauses were not allowed in OFF contracts, Jordanian banks face a difficult situation. The banks can claim to have issued guarantee letters on the basis of false information they received (i.e., that the companies needed the guarantees to fulfill a "performance clause" in their contracts), and to have had no way of knowing what exactly (i.e., the 661 Committee's blocking of a contract rather than a true performance issue) would trigger a deduction from their Rafidain accounts. But if the banks really did not know from the beginning that all blocked contracts triggered drawdowns on their Rafidain accounts, why had they never done an analysis on this major drain on bank finances? The confidentiality clause of Jordan,s Banking Law prohibits (with limited exceptions) revelation of further information that could confirm Jordanian banks' active knowledge of their role in facilitating OFF violations. However, a solid piece of evidence that violations were being facilitated - whether knowingly or unknowingly - would seem likely to lead to substantial pressure on Jordan to waive the clause and allow further investigation.

11. (C) The CBJ could more plausibly have been unaware of the "kickback guarantees" flowing through Jordan,s banking system - but its failure to detect traces of such a potentially large money-laundering scheme would diminish confidence in the CBJ,s competence to handle its regulatory functions. Both the CBJ regulators auditing Rafidain and those auditing the other Jordanian banks would presumably have no reason to know that the Jordanian banks' accounts at Rafidain were being drawn down for any reason other than a performance issue on the part of a supplier (coupled with a failure by the supplier to pay the GOI the contractually obligated amount) as stated in the guarantee letter issued to Rafidain.

12. In the immediate prewar period, the CBJ froze many accounts associated with the Iraqi regime, accounts totalling \$620 million. \$250 million of those accounts have already been transferred to the DFI, with more transfers expected shortly. Nevertheless, in the matter of OFF violations, the CBJ has left itself open for criticism by the strong rhetorical stance it has taken in denying any role by Jordanian banks in OFF violations. CBJ Deputy Governor Mohammed Said Shahin, for instance, told STAFFDEL Scharfen that the banks "knew better than to be involved in anything like this. If they had, we would have strung them up!"

13. ACTION REQUEST: Embassy will be seeking further

clarification from GOJ and CBJ officials on these matters.
To aid in this search, Embassy requests assistance from
Department and USUN in verifying Khawaja's allegation that
OFF contracts were exempted from all performance guarantees.
HALE